IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 29 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMRITKUMAR AMBALAL (HUF)

Versus

COMMISSIONER OF WEALTH-TAX

Appearance:
MR RK PATEL for Petitioner
MR BB NAIK with MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 18/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

At the instance of the assessee, the Income-tax Appellate Tribunal, Ahmedabad Bench "B" has referred the

following question of law for the opinion of this Court in respect of assessment year 1975-76 :-

"While valuing the land as on if relevant valuation date, whether, on the facts and in the circumstances of the case, the Tribunal was right in taking into account the valuation of the land as on a date when the land could not have been sold since that was done by the assessee himself?"

2. The assessee is an Hindu Undivided Family and is assessed to wealth tax. The assessee's wealth consists of immoveable as well as moveable properties. The assessee submitted return of wealth and declared the value of the land situated at Kochrab at Rs.2,95,860/-. The question of value of this land was referred to the Valuation Officer, Unit III, Income-tax Department, Ahmedabad who by his order dated March 12, 1980 passed under Section16A(5) of the Wealth Tax Act, 1957 determined the value of the land at Rs.7,89,000/-. The Wealth Tax Officer, therefore, valued the land in question at Rs.7,89,000/- as against Rs.2,95,850/- shown by the assessee. In appeal by the assessee, the Commissioner of Wealth-tax (Appeals) confirmed the order of the Wealth Tax Officer. On further appeal to the Tribunal, the Tribunal has confirmed the order passed by the Wealth Tax Officer as well as the Commissioner (Appeals).

3. Mr RK Patel, learned counsel for the assessee submitted that in view of the provisions of the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 which came into effect from August 12, 1978 and remained in force for a period of three years i.e. upto August 12, 1975, the alienation of the land was prohibited and, therefore, the value declared by the assessee ought to have been accepted by the Wealth Tax Officer. It was pleased that when the land was sold by the partnership firm, there was no Act in force prohibiting the same and, therefore, the Wealth Tax Officer was not justified in assessing the value of the land at the rate of Rs.155/- per sq. yard.

The last contention which was urged on behalf of the assessee was that in view of the large area of the land in question, instances relating to small lands should not have been taken into consideration by the Valuation Officer and the valuation made by him should not have been accepted by the authorities.

4. Mr BB Naik, learned counsel for the revenue contended that the assessee himself had valued the land at Rs.8,80,075/- on June 1, 1975 converting the same as his stock-in-trade and introduced the land as his capital contribution in partnership firm on July 5, 1975 adopting the same value and, therefore, the Tribunal was justified in upholding the valuation adopted by the Wealth Tax Officer. According to the learned counsel for the revenue, the Valuation Officer was quite considerate in reducing the figure by about Rs.1,00,000/- and, therefore, no error was committed by the Wealth Tax Officer or by the Tribunal in placing reliance on the report submitted by him. What was stressed was that though when the land was sold by the partnership firm, there was no Act in force prohibiting the transfer, the rate of Rs. 155/- per sq. yard adopted for valuing the land cannot be said to be unreasonable and the reference should be rejected.

5. We have heard the learned counsel for the parties. It is relevant to notice that the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 came into effect on August 12, 1972 and remained in force for a period of three years i.e. upto August 12, 1975. The assessee himself had valued the land in question at Rs.8,80,075/- on June 1, 1975 i.e. when the provisions of the above referred to Act were in force and had converted the same as his stock-in-trade and introduced the land as his capital contribution in partnership firm on July 5, 1975 adopting the same value. Therefore, the contention that in view of the provisions of the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972, the valuation declared by the assessee ought to have been accepted by the Wealth Tax Officer and the Tribunal has no merits. So far as the report of the Valuation Officer is concerned, we find that after detailed discussion the land was valued at Rs.155/- per sq. yard. Before valuing the land in question, several sale instances were taken into consideration by the officer and even the objections which were raised on behalf of the assessee were also taken into consideration. Under the circumstances, the report of the Valuation Officer was rightly relied upon by the authorities for the purpose of assessing the value of the land. It is relevant to notice that the land was sold by the partnership firm at the rate of Rs.191/- per sq. yard but that rate is not taken into consideration while valuing the land. In view of the fact that the assessee himself had valued the land at Rs. 8,80,075/on June 1, 1975, we are of the opinion that the Tribunal was right in taking into account the valuation of the land as

on a date when the land could not have been sold since that was done by the assessee himself. The reference is, therefore, answered in the affirmative i.e. in favour of the revenue and against the assessee and it accordingly stands disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-